

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

| | |
|------------------------------------|------------------------|
| Richard Gero, | : |
| Petitioner, | : |
| | : |
| v. | : File No. 2:09 CV 103 |
| | : |
| Andrew Pallito, Commissioner, | : |
| Vermont Department of Corrections, | : |
| Respondent. | : |

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed June 16, 2010. After careful review of the file and the Magistrate Judge's Report and Recommendation, no objections having been filed by any party, this Court ADOPTS the Magistrate Judge's recommendations in full for the reasons stated in the Report.

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

The respondent's motion to dismiss (Doc. 22) is **GRANTED** and Gero's petition for writ of habeas corpus (Doc. 1), filed pursuant to 28 U.S.C. § 2254 is **DENIED**.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is **DENIED** because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could

have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

THIS CASE IS DISMISSED.

Dated at Burlington, in the District of Vermont, this 9th day of July, 2010.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge
U.S. District Court